

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

DANIEL LAMONT JOHNSON,)	
)	
Petitioner,)	
)	
vs.)	Case No. CIV-07-1013-F
)	
JUSTIN JONES, Director,)	
)	
Respondent.)	

ORDER

This action seeks habeas relief under 28 U.S.C. § 2254. Petitioner appears *pro se*, and his pleadings are liberally construed.

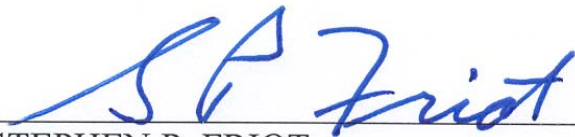
On November 9, 2007, respondent moved to dismiss the petition for habeas corpus on the grounds that it was as time-barred by the statute of limitations. (Doc. no. 12). Magistrate Judge Gary M. Purcell entered his Report and Recommendation in this matter on November 26, 2007, recommending that the petition be dismissed as time-barred. (Doc. no. 16.) On December 14, 2007, petitioner filed a document entitled “Petitioner’s Reply to Motion to Dismiss.” Construing the pleadings liberally, the court construes this document as a timely objection to the Report and Recommendation of the magistrate judge, which raises both general and specific objections to the Report and Recommendation. (Doc. no. 17.) Accordingly, the court reviews all issues *de novo*.

In his objection to the Report and Recommendation, petitioner makes certain arguments in support of his position that his petition should not be time-barred, which it appears he did not make before the magistrate judge. Petitioner, however, has not shown any extraordinary circumstances beyond his control which prevented the filing of a timely habeas petition. Moreover, he has not shown a substantial likelihood that

he is actually innocent, or diligent pursuit of his federal claims. Accordingly, petitioner is not entitled to equitable tolling of the limitations period and the petition should be dismissed as time-barred, as recommended by the magistrate judge.

For these and other reasons, after careful study of petitioner's objections, the Report, the record, and the relevant legal authorities, the court finds and concludes that it concurs with the magistrate judge's determinations. Respondent's "Motion to Dismiss Petition for Habeas Corpus as Time Barred by the Statute of Limitations" is **GRANTED**. The November 26, 2007 Report and Recommendation of Magistrate Judge Gary M. Purcell is **ACCEPTED, ADOPTED, and AFFIRMED** in its entirety, and the Petition for a Writ of Habeas Corpus is **DISMISSED** as untimely.

Dated this 8th day of January, 2008.



STEPHEN P. FRIOT
UNITED STATES DISTRICT JUDGE

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